IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6798 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

THAKORE AMRATJI MOBATJI

Versus

DEVELOPMENT COMMISSIONER

Appearance:

MR SD PATEL for Petitioners

Mr. S.S.Patel, ASSTT. GOVERNMENT PLEADER for Respondent No. 1

NOTICE SERVED for Respondent No. 2, 3

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 31/03/2000

ORAL JUDGEMENT

By means of this petition, the petitioners have sought for quashing and setting aside the show cause notice dated 13th September, 1988 issued by the Development Commissioner, State of Gujarat, Gandhinagar. The case, according to the petitioners, is

that the petitioner no.1 was elected as Sarpanch of Vahana Gram Panchayat. The petitioner no.2 was elected as Deputy Sarpanch and the petitioner nos. 3 and 4 were elected as members of the same Panchayat. There were in all nine members of the Panchayat. The Sarpanch called the first meeting of the Panchayat on 6.1.88 and some altercation took place in that meeting and hence, proceedings had to be adjourned. The Panchayat called another meeting on 14th March, 1988, but other five members who were opposing the petitioners and the group had not remained present in the said meeting and therefore, the item of budget was passed unanimously. The respondent no. 3 Taluka Development Officer invoked the powers under section 294 of the Gujarat Panchayats Act, 1961 regarding the said resolution passed by the Panchayat Committee on 14th March, 1988 in respect of the budget. Another meeting was called on 28th March, 1988 for considering several items, but majority of the members, i.e. the group of five other members did not allow to conduct the proceedings of the meeting and estimated budget could not be passed. Thereafter, the Panchayat called meeting for 23rd May, 1988 but due to intervention of the group of five other members, the proceeings of the meeting could not be conducted. The impugned show cause notice was issued by the Development Commissioner, State of Gujarat, Gandhinagar calling upon the Panchayat as to why the Panchayat should not be superseded as the Panchayat had failed to pass the budget. That notice has been challenged in this petition on the ground that the reply of the petitioners cannot be said to be the reply of the petitioners as other five members were not co-operating the petitioners and other members. Hence, the order regarding the show cause notice was in violation of Articles 14 and 19 of the Constitution of India.

3. At the initial stage, interim order was granted by this Court on 11th October, 1988, but that interim order was vacated by an order dated 26th October, 1988 on the conditions that the petitioners will be permitted in their own right to file reply to the impugned show casuse notice and in case any adverse order against the concerned parties is passed, they were given liberty to challenge the same in accordance with law.

4. The matter has been called out thrice and in the fourth round of the board also, none appeared on behalf of any of the parties.

5. The learned AGP Mr. Patel submitted that

this is a matter of 1988. In pursuance of the order dated 26th October, 1988, the matter must have been settled by the authority concerned. Either the Panchayat would have been dissolved or new Panchayat would have been elect ed in accordance with the provisions of the Gujarat Panchayats Act or the petitioners would have been allowed to continue the Panchayat. Moreover, the term of five years has already expired much earlier and it is not possible to say at this stage that the matter still survives. The matter must have been settled or resolved in any other manner. That is why none of the counsel has appeared to pursue this matter.

6. In the facts and circumstances, I do not find any substantial ground to interfere with the impunged orders passed by the authorities. This petition is therefore, liable to be dismissed and is accordingly dismissed. Rule is discharged with no order as to costs.

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